

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GEORGE M. BRASS,

Petitioner,

vs.

BRIAN WILLIAMS, SR., *et al.*,

Respondents.

Case No. 2:13-cv-02020-GMN-VCF

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. This matter comes before the Court on petitioner's motion for the appointment of counsel. (ECF No. 8).

Pursuant to 18 U.S.C. § 3006(a)(2)(B), the district court has discretion to appoint counsel in a habeas corpus action when it determines that the "interests of justice" require representation. There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

In the instant case, petitioner was convicted of first-degree murder and other crimes in state court, and he is serving a life sentence in the Nevada Department of Corrections. Petitioner asserts that he is unable to understand the complexities of this case, and that a fellow inmate assisted him with preparing the petition. The petition on file with this Court includes many claims, the contents

1 of which suggest that this may be a relatively complex case. In the interests of justice, the Court
2 grants petitioner's motion for the appointment of counsel.

3 Therefore, the Federal Public Defender for the District of Nevada (FPD) shall be appointed
4 to represent petitioner. If the FPD is unable to represent petitioner, due to a conflict of interest or
5 other reason, then alternate counsel for petitioner shall be located, and the Court will enter a
6 separate order appointing such alternate counsel. In either case, counsel will represent petitioner in
7 all future federal proceedings relating to this matter (including subsequent actions) and appeals
8 therefrom, unless allowed to withdraw.

9 **IT IS THEREFORE ORDERED** that petitioner's motion for the appointment of counsel
10 (ECF No. 8) is **GRANTED**. The Federal Public Defender is appointed to represent petitioner.

11 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL ELECTRONICALLY**
12 **SERVE** the Federal Public Defender for the District of Nevada (FPD) a copy of this order, together
13 with a copy of the petition for writ of habeas corpus (ECF No. 7). The FPD shall have **thirty (30)**
14 **days** from the date of entry of this order to undertake direct representation of petitioner or to
15 indicate to the Court its inability to represent petitioner in these proceedings.

16 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL SEND** a copy of this order
17 to the CJA Coordinator.

18 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case,
19 the Court will issue a scheduling order, which will, among other things, set a deadline for the filing
20 of a first amended petition.

21 **IT IS FURTHER ORDERED** that respondents' motion for an extension of time to respond
22 to the petition (ECF No. 11) is **GRANTED**. The deadline for responding to the amended petition
23 will be set forth in the Court's scheduling order.

24 DATED this 1st day of May, 2014.

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Gloria M. Navarro, Chief Judge
United States District Court